

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cassandra Luxama	Team: Team # 5	CCRB Case #: 201002053	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 02/12/2010 5:30 PM	Location of Incident: East 143rd Street and 3rd Avenue	Precinct: 40	18 Mo. SOL 8/12/2011	EO SOL 8/12/2011	
Date/Time CV Reported Fri, 02/12/2010 5:54 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 02/12/2010 5:54 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Isaias Martinez	17243	927792	040 PCT
2. POM Angel Rodriguez	22904	929568	040 PCT
3. SGT Seth Lynch	02266	932932	040 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jose Reyna	12126	942422	040 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Seth Lynch	Abuse: Sgt. Seth Lynch supervised the stop of § 87(2)(b) and § 87(2)(b)	
B.POM Isaias Martinez	Off. Language: PO Isaias Martinez made remarks to § 87(2)(b) based upon race.	
C.POM Isaias Martinez	Abuse: PO Isaias Martinez threatened to arrest § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On February 12, 2010, § 87(2)(b) filed the following over the call processing system at the Civilian Complaint Review Board.

On February 12, 2010, at approximately 5:30 p.m., § 87(2)(b) was inside his friend's, § 87(2)(b) car on East 143rd Street and 3rd Avenue in the Bronx when an unmarked police car stopped next to their vehicle. The following allegations resulted:

Allegation A – Abuse of Authority: Sgt. Seth Lynch supervised the stop of § 87(2)(b) and § 87(2)(b) § 87(2)(g)

Allegation B – Offensive Language: PO Isaias Martinez made remarks to § 87(2)(b) based upon race. § 87(2)(g)

Allegation C – Abuse of Authority: PO Isaias Martinez threatened to arrest § 87(2)(b)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Note: On June 6, 2010, this case was reassigned to Inv. Cassandre Luxama after the departure of Inv. Tessa Yesselman from the agency.

Results of Investigation

Civilian Statement(s)

Complainant: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b) year old black male, who is 5'8" tall, weighs 170 pounds with black hair and brown eyes. § 87(2)(b)

CCRB Statement

On March 4, 2010, § 87(2)(b) was interviewed at the CCRB (encl. 8a-d). § 87(2)(b)'s initial statement (encl. 6a-b) was consistent with the telephone statement (encl. 7) he provided on February 22, 2010, and the formal statement he provided at his CCRB interview (encl. 8a-d). On February 12, 2010, at approximately 5:30 p.m., § 87(2)(b) was in a car driven by his boss, § 87(2)(b). § 87(2)(b) pulled over at the corner of East 143rd Street and 3rd Avenue in the Bronx, to drop § 87(2)(b) off. § 87(2)(b) did not take § 87(2)(b) directly in front of his property, but instead dropped him around the corner from his home. As soon as § 87(2)(b) stopped the vehicle, § 87(2)(b) looked up and saw an officer, later identified as PO Isaias Martinez by his nameplate and shield number, knocking on the passenger window. § 87(2)(b)

§ 87(2)(b) did not account for committing any vehicle infractions. § 87(2)(b) put the window down and asked PO Martinez what happened. PO Martinez said, “Nigga, look where you at,” and then asked § 87(2)(b) for ID. § 87(2)(b) told him that he did not have his state issued ID on him, and only had his work ID. PO Martinez said, “I could lock you up for not having your state ID,” and then went back to his car, which was a black Chevrolet Impala, with § 87(2)(b) s work ID. The other officer, PO Angel Rodriguez (Hispanic, male, 6’1”, 220lbs, 30’s), who was identified through the investigation, asked § 87(2)(b) for her license and then went back to the RMP. The officers came back approximately five minutes later. PO Martinez gave § 87(2)(b) his ID back and told him he had warrants out for jumping the turnstiles in the train. § 87(2)(b) told PO Hernandez that it was impossible for that to be true. PO Rodriguez said, “Don’t pay him no mind,” to § 87(2)(b) referring to PO Martinez. § 87(2)(b) said, “How can I pay him no mind when he’s still talking to me?” PO Martinez stated, “Don’t say another word or I’ll lock you up,” and returned § 87(2)(b) s ID to him. § 87(2)(b) told PO Martinez that he was abusing his authority and PO Martinez said, “So what? If you don’t like it, my name is Officer Martinez, I work in the 40th Precinct and you can go there and make a complaint against me any time you want. Have a nice fucking day.” PO Martinez then gave § 87(2)(b) a thumbs up and walked back to his car. § 87(2)(b) noted that PO Martinez’s badge was visible during the incident and his badge number was 12743. The incident lasted for approximately 10 minutes. No arrests were made or summonses issued. § 87(2)(b) and § 87(2)(b) remained in the car for the entirety of the incident.

Witness: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b) year old black female, weighs 170 pounds. § 87(2)(b)

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on April 21, 2010 (encl. 9a-c). On February 12, 2010, at approximately 5:30 p.m., § 87(2)(b) was dropping § 87(2)(b) off at the corner of East 143rd Street and 3rd Avenue in the Bronx. § 87(2)(b) signaled and pulled over, pulling in front of a black car with tinted windows. § 87(2)(b) and § 87(2)(b) were saying goodbye and had only been pulled over for a couple of seconds before three officers approached § 87(2)(b) s vehicle. § 87(2)(b) did not indicate where they were parked. One officer approached the driver’s side and two officers approached the passenger’s side. The officers were dressed in plainclothes, but § 87(2)(b) knew that they were officers because they had badges around their necks. PO Angel Rodriguez, who was identified through the investigation, approached § 87(2)(b) he is a Hispanic male, in his late 30’s, approximately 5’9” tall. PO Isaias Martinez, who was identified through the investigation, approached the driver’s side; he is a Hispanic male, approximately 5’6” tall, with a stocky build and in his early 30’s. A third officer, who remained at the rear of the vehicle, was identified through the investigation as, Sgt. Seth Lynch. Sgt. Lynch did not have any interaction with § 87(2)(b) and § 87(2)(b) and stayed standing at the back of § 87(2)(b) s car on the passenger side. PO Rodriguez said, “Do you know what you did?” § 87(2)(b) replied that she hadn’t done anything wrong, and that she had signaled before she pulled over and was dropping § 87(2)(b) off. PO Rodriguez asked § 87(2)(b) for her license and registration. § 87(2)(b) went in to the glove compartment and got her registration. § 87(2)(b) put the window down and asked PO Martinez why they were being stopped and PO Martinez repeatedly told § 87(2)(b) to, “Shut up.” PO Martinez also said, “We’re not talking to you, we’re talking to her.” § 87(2)(b) continued to talk to PO Martinez, asking him why they were being stopped. PO Martinez became very agitated and called § 87(2)(b) a “Nigger.” § 87(2)(b) did not provide the exact statement. PO Martinez also asked § 87(2)(b)

§ 87(2)(b) for his ID. § 87(2)(b) only had his work ID on his person, and he gave it to PO Martinez. The officers went back in to vehicle and came back to § 87(2)(b)'s vehicle approximately twenty minutes later. PO Rodriguez gave § 87(2)(b) her license and registration back and told her that everything was okay with her materials. PO Martinez gave § 87(2)(b) his ID back and told him that he had a transit warrant out. PO Martinez said, "I could arrest your ass right now, but I'm being nice and I'm going to let you go." PO Martinez was speaking in a very rude tone and PO Rodriguez said, "Don't mind him, he has a short fuse." § 87(2)(b) said, "I still have no idea why you pulled me over." PO Rodriguez did not give her an explanation, and kept telling her not to pay PO Martinez any mind. PO Martinez kept telling § 87(2)(b) to, "Shut up." PO Rodriguez and PO Martinez eventually walked away from § 87(2)(b)'s car and got in to their car. No arrests were made or summonses issued.

NYPD Statement(s):

Subject Officer: PO ISAIAS MARTINEZ

- *PO Isaias Martinez is a § 87(2)(b) year old Hispanic male, 5'7", who weighs 195 pounds, with black hair and brown eyes.*
- *On February 12, 2010, PO Martinez worked a tour of 9:30 a.m. to 6:05 p.m. on an anti-crime assignment with PO Angel Rodriguez. PO Martinez was dressed in plain clothes and worked in a grey Chevy Impala.*

Memo Book

"At 5:34 p.m., stopped vehicle with license plate number § 87(2)(b). The driver, § 87(2)(b) passed on the right and parked at a no standing bus stop. The passenger § 87(2)(b) committed OGA and had no valid state identification. § 87(2)(b) was warned and admonished regarding the obstruction of governmental administration and not having proper identification with his date of birth (encl. 10a-d)."

CCRB Statement

On July 9, 2010, PO Isaias Martinez was interviewed at the Civilian Complaint Review Board (encl. 11a-b). On February 12, 2010, at East 143rd Street and 3rd Avenue in the Bronx, PO Martinez witnessed a vehicle pass on the right of his car and then parked at a bus stop, which had a no standing zone. PO Martinez stated that he was in a high crime neighborhood known for drug sells and violent assaults, but he approached the vehicle specifically for the moving violation infraction. PO Martinez and PO Rodriguez decided to speak to the driver about the infraction. PO Rodriguez explained that he was not working with all the members of his anti-crime team. PO Martinez stood at the front passenger side of the car while PO Rodriguez stood near the back passenger side of the car. PO Martinez explained his observation and asked the driver, § 87(2)(b) for her license and registration card. § 87(2)(b) who was seated in the front passenger side of the car interrupted and told PO Martinez "This is crazy. You stopped us because we are black." PO Martinez replied, "Please let me communicate what I want to communicate to the driver." PO Martinez explained that the driver had to produce her license and insurance card and § 87(2)(b) should produce some sort of license. § 87(2)(b) then told § 87(2)(b) not to provide those documents. § 87(2)(b) wanted to comply, but § 87(2)(b) insisted that she did not provide the documents. PO Martinez repeated that he needed the documents. § 87(2)(b) reached in the glove compartment for the documents and § 87(2)(b) again told her not to provide the documents. PO Martinez told § 87(2)(b) that he was interfering with his investigation and that he could be arrested for obstructing governmental administration. PO Martinez felt that he had to say this to § 87(2)(b) because he may not

have known what he was doing. § 87(2)(b) would not let him speak to the driver. PO Martinez told § 87(2)(b) that he was not in violation of anything but if he continued he was interrupting his investigation. PO Martinez explained that the stop would only be two minutes if he allowed him to have the documents. PO Martinez again stated that he needed § 87(2)(b)'s license and insurance card. § 87(2)(b) pleaded with § 87(2)(b) and said that she did not have a problem with providing the documents. § 87(2)(b) then turned to PO Martinez and asked him why the documents were needed. § 87(2)(b) was eventually able to provide the documents and § 87(2)(b) shoved his work identification close to PO Martinez's face. § 87(2)(b) asked PO Martinez if he is able to see where he works. § 87(2)(b) works for an agency that has an office in § 87(2)(b). § 87(2)(b) told PO Martinez that he knew how to deal with him.

PO Martinez returned to his car and validated the documents he received. PO Martinez returned to the car to return the documents and § 87(2)(b) said again, "I know how to deal with you." PO Martinez told § 87(2)(b) that if he was dissatisfied with their interaction he was willing to write down his name, shield, and command on a piece of paper. PO Martinez said that he verbally identified himself to § 87(2)(b) and he then returned to his car. Neither PO Martinez nor his partner at any point speak discourteously towards § 87(2)(b) or called him a "nigger."

Subject Officer: PO ANGEL RODRIGUEZ

- *PO Angel Rodriguez is a § 87(2)(b) year old Hispanic male, 5'8", who weighs 195 pounds, with brown hair and brown eyes.*
- *On February 12, 2010, PO Rodriguez worked a tour of 11:30 a.m. to 8:05 p.m. on an anti-crime assignment with PO Isaias Martinez. PO Rodriguez was dressed in plain clothes and worked in a grey Chevy Impala.*

Memo Book

There were no entries regarding this incident (encl. 14a-b).

CCRB Statement

On November 18, 2010, PO Angel Rodriguez was interviewed at the Civilian Complaint Review Board (encl. 15a-b). On February 12, 2010, PO Angel Rodriguez was the operator of a grey Chevy Impala used by the team. Sgt. Lynch was in their vehicle at the time of this incident. PO Rodriguez stated that he vaguely recalled this incident. On the day in question, there was a car parked at a bus stop. PO Martinez decided to approach the car because of the parking violation. All three officers exited the car. PO Rodriguez approached the driver side of the car and spoke to a female motorist, identified through the investigation as § 87(2)(b). PO Rodriguez requested her driver's license and registration. PO Martinez was on the passenger side of the vehicle while Sgt. Lynch remained at the rear of the car. Sgt. Lynch did not interact with any of the car's occupants; he just observed the stop. There was a male, identified through the investigation as § 87(2)(b) in the car and PO Martinez was speaking with him. PO Rodriguez was unable to hear their conversation because he was focused on what he was doing with the driver. There was nothing in PO Martinez's demeanor to suggest that PO Rodriguez was experiencing a problem with any of the passengers. There was also no indication that § 87(2)(b) was experiencing a problem with PO Martinez. § 87(2)(b) did not make any complaint to PO Rodriguez. PO Rodriguez did not recall whether he had any difficulty obtaining the § 87(2)(b)'s documents. He did not recall if § 87(2)(b) interfered in anyway. PO Rodriguez did not interact with § 87(2)(b). After PO Rodriguez obtained the documents, he returned to their car and PO Martinez accompanied him. There were not separated at any point

during this stop. PO Rodriguez did not hear PO Martinez speak discourteously, use offensive language, or threaten anyone in the car. PO Rodriguez did not witness PO Martinez obtain § 87(2)(b)'s identification or conduct any warrant searches. PO Rodriguez warned the motorist about the infraction instead of issuing her a summons. The officers then left the location.

Subject Officer: SGT. SETH LYNCH

- *Sgt. Seth Lynch is a § 87(2)(b) year old white male, who is 5'11", weighs 194 pounds, with black hair and brown eyes.*
- *On February 12, 2010, Sgt. Lynch worked a tour of 11:26 a.m. to 8:10 p.m. on an anti-crime assignment with PO Angel Rodriguez and PO Isaias Martinez. Sgt. Seth Lynch was dressed in plain clothes and worked in a grey Chevy Impala.*

Memo Book

Sgt. Lynch did not appear to his scheduled CCRB interview with his memo book, but agreed to fax a copy to the investigator. As of March 16, 2011, a fax was not sent to the agency.

CCRB Statement

On January 7, 2011, Sgt. Seth Lynch was interviewed at the Civilian Complaint Review Board (encl. 16a-h). On February 12, 2010, Sgt. Seth Lynch worked a tour of as the Anti-Crime supervisor with PO Isaias Martinez and PO Angel Rodriguez. These two officers were assigned to his car, but there were other officers assigned to his team. He did not remember his additional teammates. Sgt. Lynch recalled that there was a vehicle stopped at a fire hydrant at the location in question with two individuals seated in the car. He did not recall the reason for approaching the car. Sgt. Lynch explained that both PO Rodriguez and PO Martinez walked to the car and spoke with the occupants while he remained with their unmarked car one or two car lengths away. Sgt. Lynch did not interact with the occupants, nor was he able to hear his officers' interaction with the occupants. He did not recall if the officers returned to the car before issuing the summons or conducted a warrant check. Sgt. Lynch did not hear PO Martinez call the civilians a "nigger," nor did he hear PO Rodriguez use such language. He did not hear the officers threaten to arrest the vehicle's occupants. Sgt. Lynch did not use any discourteous statements. Sgt. Lynch did not recall receiving an account from the officers regarding their interaction with the civilians when they returned to the vehicle.

Witness Officer: PO JOSE REYNA

- *PO Jose Reyna is a § 87(2)(b) year old Hispanic male, who is 5'8", weighs 194 pounds, with black hair and brown eyes.*
- *On February 12, 2010, PO Jose Reyna worked a tour of 4:00 p.m. to 12:00 a.m. in sectors H, I, and J, with PO Ezequiel Martinez. PO Reyna worked in a marked car vehicle number 2072 in uniform.*

Memo Book

PO Reyna did not create any entries involving this incident. At 4:35 p.m., PO Reyna was at the scene of an accident. At 6:00 p.m., PO Reyna was at the scene of the accident (encl. 12a-d).

CCRB Statement

On May 12, 2010, Jose Reyna was interviewed at the Civilian Complaint Review Board (encl. 13a-b). However, the investigation determined that he was not involved in this incident. This incident involved plain clothes officers while PO Reyna was assigned to a patrol in a marked car.

Civilian(s) CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 5).
- § 87(2)(b) has filed the following CCRB complaints (encl. 4):

- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]

Subject Officer(s) CCRB History

- PO Angel Rodriguez has been a member of the service for eight years and there are no substantiated CCRB allegations against him. (encl. 3).
- PO Isaias Martinez has been a member of the service for nine years and there are no substantiated CCRB allegations against him. (encl. 2).

Conclusion

Identification of Subject Officer(s)

Sgt. Seth Lynch was identified through the investigation and he testified his involvement in this incident at the time of his CCRB interview. § 87(2)(g) [REDACTED]
[REDACTED]

PO Isaias Martinez was identified from the shield number § 87(2)(b) [REDACTED] provided. PO Martinez confirmed his involvement in this incident at the time of his CCRB interview.

PO Angel Rodriguez was identified through PO Isaias Martinez's testimony and contacting roll call at his command. PO Angel Rodriguez confirmed his role in this incident at the time of his CCRB interview.

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: Sgt. Seth Lynch supervised the stop of § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) alleged that officers their car without cause.

All officers interviewed confirmed § 87(2)(b)'s car was stopped for a traffic infraction. PO Angel Rodriguez testified that he gave § 87(2)(b) a warning for the infraction and used his discretion in not issuing her a summons. § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation B – Offensive Language: PO Isaias Martinez made remarks to § 87(2)(b) based upon race.

§ 87(2)(b) alleged that PO Isaias Martinez called him a “nigger.” § 87(2)(b) corroborated § 87(2)(b) s account. § 87(2)(b) PO § 87(2)(b) denied using offensive language and none of the officers interviewed corroborated § 87(2)(b) s allegation. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Allegation C – Abuse of Authority: PO Isaias Martinez threatened to arrest § 87(2)(b)

§ 87(2)(b) testified that PO Martinez threatened to arrest him. PO Martinez testified that § 87(2)(b) repeatedly interfered with his ability to obtain § 87(2)(b) s documents during the stop. PO Martinez told § 87(2)(b) that he would be arrested for obstruction of governmental administration if he continued to interfere. However, § 87(2)(b) testified that § 87(2)(b) was warned that he had an open warrant that could result in his arrest. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

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§ 87(2)(b)

§ 87(4-b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

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§ 87(2)(b)

§ 87(4-b), § 87(2)(g)

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Team: _____

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Investigator: _____
Signature Print Date

Supervisor: _____

	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date